

**Coordinating Subcommittee for  
Developmental Disabilities Services  
Meeting Summary  
April 4, 2012**

The Coordinating Subcommittee for Developmental Disabilities Services met April 4, 2012, at the AIDT Center in Montgomery, Alabama.

The meeting was called to order by Associate Commissioner Ann White-Spunner.

**Members Present**

Ann White-Spunner, DMH/DD Representative  
Willodean Ash, DMH/DD Representative  
Jeff Williams, DMH/DD Representative  
Steven Lafreniere, DMH/DD Representative  
Jim Dill, Alabama Council Representative  
Anne Penney, Alabama Council Representative  
Earl Brightwell, MR/DD Representative  
Dianne Durbin/Advocacy Services Representative  
Myra Jones, DD Council Representative  
Earl Brightwell, MR/DD Representative  
Wallace Davis (DeAnna Ferguson), Other Provider Representative  
Murray Townsend, The Arc of Alabama Representative  
Elouise Woods, People First Representative  
Amanda Ward (Tom Holmes), The Arc of Alabama Consumer Representative  
Danny Grant, Region 1, Consumer Representative  
Jeff Ridgeway, People First Representative  
John VanCamp, Region 2, Provider Representative  
Katherine Parker (Lou Vick), Region 2 Family Representative  
Susan Klingel, Region 1, Provider Representative  
Patti Martin, Region 4, Provider Representative  
Bill Hoehle, Region 5, Provider Representative

**Visitors**

Commissioner Baugh, Terry Bartlett, Daphne Rosalis, Audrey McShan, Susan Ford, Joey Kreauter, John Oaks, Cynthia Daniels, Barbara Brunson, LaGretta Ratliff, Cassandra Odom, Jerryln London, Mike Martin, George Neal, Susan Ford, Anthony Couch, Andy Slate, Rebekah (Becky) Matthews, Lori Leathers, Carolyn Little, Rose Hill, Gwendolyn Johnson, James Tucker, Ellen Gillespie, Gary Edwards, Ken Oliver, Lee Conner, Bill Summer, Donna Foster, and Donna Akins,

**Recorder**

Shirley Hicks

### **Approval of March 6, 2012 Minutes (A. White-Spunner)**

March 6, 2012, meeting minutes were presented to the subcommittee for approval. Dr. Hoehle made a motion to approve the minutes as presented. The motion was seconded by Mr. Williams, and the motion passed unanimously.

### **Agenda (A. White-Spunner)**

The agenda was presented for approval. Mrs. Martin made a motion to approve the agenda as presented. The motion was seconded by Mr. Brightwell. The motion passed unanimously.

### **Budget Update**

Commissioner Baugh stated she wanted to clarify what is being said in the media and also wanted to share budget information with the subcommittee. She stated the Governor has declared proration of 10.62%, which equals \$12.3 million for the Department of Mental Health. She knows that everyone is waiting to hear what we are planning to do about proration. She stated behind the scene, a lot has been happening and a lot has been going on. She anticipated having something for the subcommittee today regarding what needs to be done but more changes occurred Monday and Tuesday. On Monday and Tuesday, the Governor and his staff, Legal Counsel and the Assistant Attorney General, appeared to be more favorable toward us. They finally understand what she has been preaching since January 18, 2011. If the Department of Mental Health is prorated, which includes community services, the Department will be sued and the Department of Justice (DOJ) will become involved. As a result of proration, the back end costs to the State of Alabama tax payers will equal to millions more than any proration the legislators could give the Department of Mental Health. This was confirmed yesterday at the Governor's office.

Commissioner Baugh indicated she needs the subcommittee to email their legislators and to go to the State House and advocate for the Department. She stated in the Administrative Code it is written that facilities/hospitals will be exempt from proration. She was told the Department's Commissioners before her have attempted in the past to expand this to community programs too, but were told the Administrative Code states facilities only are exempt from proration and that community programs are not facilities. Yesterday, with the help of the Assistant Attorney General, they are going to get a new Attorney General (AG) Opinion because we explained to them that the Administrative Code was written when the Department of Mental Health did not have community outplacement services or residential mental health services. In this day and time, the way the Department's Administrative Code is interpreted does not reflect what our Department is transitioning toward, which is community based services. She noted the AG's Opinion can go either way although she hopes the AG's Opinion

will protect the entire Department from proration. Commissioner Baugh indicated the subcommittee can help by putting pressure on their legislators and putting pressure on any appropriate body they have connection with to deem the Department of Mental Health as an essential body of state government like she has been saying during her tour across the state. She stated this is the best thing the subcommittee can do right now as far as helping. The House General Fund Budget is coming out today. We will have to wait and see what our agency's cut will be.

Once she receives the AG's Opinion, she will have more options regarding the Department's plans. They met with the Governor yesterday, and submitted six scenarios and the financial impacts. The meeting went fairly well. The Governor received the information he needs in order to make an informed decision. We anticipate a decision being made this Friday, April 6, 2012. Commissioner Baugh emphasized to the subcommittee again to leave this meeting and go to the State House today and tomorrow and ask that the Department of Mental Health be deemed as an essential agency of state government, and request that they include community programs under the Administrative Code and not prorate the Department of Mental Health. The financial implications of proration could be federal intervention which will be much greater than a \$12.3 million cut. She stated the state of Delaware alone, with their recent DOJ settlement, received an increase in their general fund allocation of what they already got with an additional \$54 million because when DOJ came in it was extremely restrictive and time limited.

Commissioner Baugh stated she feels like with the team (providers, ADAP, and families) we have in place, we already know what we need to do to improve our system of care across the board. She would rather us be adequately funded and achieve the accomplishments and partnership with everyone rather than be faced with federal intervention.

Commissioner Baugh added she can honestly say she has looked at many different plans regarding proration and the financial impact. With the \$12.3 million proration for the remaining of FY2012, 12,500 people will lose their outpatient and residential mental health services, the Department's hospital census will go back up by an additional 269 patients statewide, individuals with ID will lose their waiver services and return to the facilities, 271 individuals will lose their ID waiver and the Department would have to reopen Partlow. This is very serious and scary. We need your help; we need you to leave from here and go to the state house. There is no time for delay. She indicated a decision will be made this Friday. She stated the irony of the \$12.3 million cut, when you look at the additional operational costs from the increases in the mental health patients and the reopening of Partlow, we will need an additional \$62 million by the end of this fiscal year from a \$12.3 million cut. This means we will have to hire 2,000 employees.

Commissioner Baugh indicated she wanted everyone to know what is going on in order for them to be an advocate. She stated it has been a roller coaster and this is why the Department has not been communicating. People are finally looking at the reality of what the impact of \$12.3 million is going to be.

What the Governor requested for the Department of Mental Health was \$103 million for FY2013, but we need the \$116.3 million and the Governor's request was sent several weeks ago before we had the meeting yesterday. The meeting yesterday was regarding legality and the Attorney General Opinion. She stated the providers and the Department may have their differences, but one thing she knows we agree on is wanting the best for the individuals we serve. This is why we need to go to the state house and advocate for what is just for the individuals we serve.

Commissioner Baugh asked Mr. Vick to give a brief summary about the meeting this morning with the Board of Nursing regarding the Nursing Practice Act. Mr. Vick first thanked the Commissioner for arranging a panel meeting with the Board of Nursing. He stated they received some major concessions such as issues regarding the 24 hours of training. This can be negotiable. The Board of Nursing is open to having modules of training on the internet. In regards to needing a nurse's authorization to apply sunscreen and other minor orders, the Board of Nursing is willing to talk more about this and determine how this will work. There is a six week timeline to get this done. The meeting went very well. Mr. Vick added he does not see a need for providers to be exempt from the Nursing Practice Act if certain concessions are received. The Commissioner commented we can not be exempt from the Nursing Practice Act because of Title XIX funding; however, she was very pleased with the meeting. She stated Dr. Stone will take the lead on this. He will chair a task force with representation from each division. Dr. Stone will also be working with Jenell Lee, Board of Nursing, regarding this issue. Commissioner Baugh stated that she appreciated Mr. Vick and Mrs. Klingel for attending the meeting and speaking from a provider's standpoint.

Mrs. Klingel asked the Commissioner if she knew how long it will be before the Department would receive the Attorney General Opinion, and the Commissioner replied she has a feeling it will be sooner than later.

The Commissioner gave her appreciation to the subcommittee for giving her the opportunity to share information with them this morning.

Mr. Kreauter introduced Andy Slate as his replacement. Mr. Slate will be working with the Division of Developmental Disabilities.

Mr. Kreauter indicated the Division is still breaking even. The Partlow Cost

Settlement is still pending. The Division is getting questions from Medicaid. The Division got a big hit of \$460,000 yesterday by Medicaid regarding the property depreciation at Partlow. Medicaid suggested the Division can only take the year and this might be disputed by the Division because it will cost \$460,000. The only questions we received so far from Medicaid are regarding the terminating cost report. Mr. Kreauter stated the community is still breaking even as well. We do have some federal revenue, but, with the jockeying around of the per diem rates at Partlow it will be paid back to Medicaid.

Mr. Townsend inquired about the Medicaid administrative costs of \$3.2 million and Mr. Kreauter replied he continued to mention this to Ms. White-Spunner. Ms. White-Spunner commented now is a good time to talk to the legislators about the administrative costs. Since they plan to go to the state house, they should mention the administrative costs to the legislators.

Mr. Kreauter indicated Region 5 has been dealing with vehicle vandalism. Their vehicles have been vandalized several times. Region 2 is sitting on Partlow's Campus. They are still working to find a suitable office space. Region 3 found new office space, and they are working to get their move expedited. Region 3 current lease terminates in July 2012. The leasing of their current office space was too expensive.

### **DD Updates**

Mr. Williams indicated that standards training regarding the implementation of the new administrative and support requirements for community providers has been conducted around the state. The same training will be conducted in Region 4 next week for individuals who missed the initial training.

An email went out yesterday indicating that the standards are on the web for public comments. Ms. Debbie Popwell is compiling the public comments. To make public comments, go to the Department's website and click on "proposed changes" and post your comments.

Dr. Penney inquired if there were any changes to the standards since the last email Mrs. Hicks sent to the subcommittee, and Mr. Williams replied he does not think so. May 4, 2012 is the deadline for public comments.

Mr. White indicated the social security training initially scheduled yesterday has been rescheduled. It will be held May 1, 2012, at 1:00 p.m., at the Alabama Public Library. Flyers regarding the following training and conferences were distributed to the subcommittee: the AL-APSE Regional meeting will be held May 11, 2012, 11:30 a.m. at the Shelby County Department of Health in Pelham, Alabama. They will be talking about guardianship; the Employment First Conference will be held June 14, 2012, at 10:00 a.m., at the Marriott Hotel

located on Airport Boulevard and the same conference will be held in Mobile, June 15, 2012, at 10:00 a.m. at Marriott Hotel located on Grandview Parkway in Birmingham; the AL-APSE and ACDDD 2012 Conference will be held at the Battle House Hotel in Mobile July 25-27, 2012.

Mr. White gave an update on Project SEARCH. There will be interviews this afternoon for job coaches. He indicated there will be three Project SEARCH pilot sites in Montgomery, Opelika, and Shelby counties. School teachers have already been identified. Project SEARCH training will be held April 18 and April 19.

The supported employment work group meeting will be held in June in Montgomery. The meeting date and location will be emailed in the near future.

Ms. Rosalis mentioned that when FY2013 arrives, the supported employment code will move to prevocational services for sheltered workshops. This change will begin at the annual redetermination planning meeting for individuals. The case managers will go over the choice options for services and determine what services are appropriate for individuals.

Ms. Ash stated Ms. London will be retiring at the end of May 2012. Interviews for this position will be conducted in the next couple of weeks.

Mr. Slate gave an update on the IRBI project. He indicated that he received IRBI information from all Regions except Region 4. He added the new IRBI rates will be effective June 1, 2012. The IRBI rate adjustments and calculations were based on the information he received from providers. Dr. Hoehle expressed his concerns regarding the current adjusted IRBI rates. Dr. Ferguson indicated that she thought the current IRBI format was going to change not the IRBI rates.

Other members expressed concerns related to the adjusted IRBI rates. Inquires were made regarding how the ICAP fits into the IRBI rate. It was indicated that providers' staff still have to be paid the same regardless of the ICAP scores. Mr. Bartlett expressed his concerns. He stated that they have already taken a 9% cut by the Department and now their IRBI rates are going to be cut. Ms. White-Spunner stated this is not a cut in services. The Division was asked to look at the IRBI rates and some providers' IRBI rates will increase and some providers' IRBI rates will decrease based on individuals' needs.

Ms. White-Spunner explained that IRBI rates are being reviewed and adjusted according to an individual's needs. For instance, if an individual has a rate of \$750.00 a day then it will be worked out so that that person can receive what he/she needs but if someone has a rate of \$200.00 a day and claiming \$750.00 then that individual's rate needs to be readjusted to reflect \$200.00.

Mr. Murray inquired if there is going to be an appeal process or if providers are going to be given a chance to respond to why an individual IRBI rate should not be cut, and Ms. White-Spunner replied again the IRBI rate adjustment is not a cut. The rate is based on an individual's needs. She stated if providers tell us they provide a one-on-one for someone and that person does not require a one-on-one then why should the provider get paid for having a one-on-one service.

Mr. Bartlett asked Ms. White-Spunner if she will entertain individual appeal cases for IRBI rates adjustments, and she replied yes. Mr. Bartlett stated since October, VOA has been operating on a 9% cut and they had no one from the Department offer any type of help to them regarding adjusting to the decrease of 9%. Since September they have been operating on a 9% cut, and they have not cut one service for individuals. He stated not all providers are in this situation because not all service providers took the 9% cut.

Dr. Ferguson inquired about why shouldn't the \$5 million surplus offset the 9% cut, and Ms. White-Spunner replied there is not a surplus of \$5 million. She stated there are some people who are being paid \$80 a day and their IRBI rates should be \$180 and some people are being paid \$550 a day and their IRBI should be \$300 a day.

Dr. Hoehle indicated a bunch of them (providers) were on the original rate setting committee and they help developed the formula for the IRBI based on the assumptions he thought were true. The assumptions were true in 2001, minimum wage adjustments, cost of living adjustments, and all kinds of factors have made the IRBI rates inaccurate. He thought a part of the IRBI rate study was to look at those underline rates to see if the formula needed to be change but he was told they are sticking with the 2001 rates. Mr. Slate stated since 2001, there have been some increase in rates, there was a \$4 increase to offset the cost impact of the NPD nursing standards. Dr. Hoehle replied those increases were related to specific activities that providers had to do, but there were no adjustments to the IRBI and those increases no way kept up with Cost of Living Adjustment (COLA) or any other environmental changes related to the cost structure. Ms. White-Spunner replied the Department has not seen a COLA either.

Mr. Vick wanted to know if any of the changes and adjustments being made were based on revising ICAPs. Mr. Slate replied the ICAPs may have change slightly over the years, but the adjustments are based on staffing ratio.

Mr. Townsend mentioned the \$5 million issue again, and Ms. White-Spunner stated she does not have a \$5 million surplus but if there is a net gain on the Division's side, it will be going to the providers.

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Ms. White-Spunner noted IRBI rates have not been adjusted since 1995. She wanted the Division to look at the IRBI rates annually. Dr. Hoehle said it was his understanding from the original rate setting that the IRBI rates were going to be adjusted annually, but it took 3 years for everyone to get an IRBI rate so some people lose and some people gain so there was a 2.8% adjustment. Mr. Bartlett inquired about whether the 2.8% was taken back.

Ms. Rosalis stated she understands what everyone was saying but back then there were a lot of stipulations that they would look at the index.

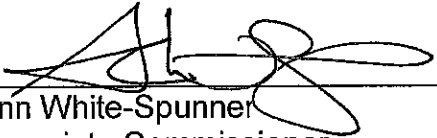
Mr. Slate stated that actually they hate dealing with the IRBI rates because it is hard to understand and interpret. They had committees get together and look at the rates. There are big losers and big winners. So far, they have not come up with another method to assign rates. Dr. Hoehle stated there are some consumers who do not fit into IRBIs or anything else.

Mr. Ridgeway asked what we need to do to make sure Partlow stays closed. Ms. White-Spunner responded she will deal with this issue when she has to because to discuss this issue now is counter-productive.

Dr. Ferguson announced one of their direct care staff, Carolyn McCoy, from VOA in Montgomery, was chosen as ANCHOR (American Network of Community Options and Resources) staff of the year. She will be recognized in Washington, D.C., in May 2012.

The next subcommittee meeting will be held May 1, 2012, at the Alabama Public Library. The Subcommittee July 3, 2012, meeting has been moved to July 10, 2012, it will be held at the AIDT Center.

**NOTE:** DUE TO THE LACK OF CLARITY ON THE PART OF THE ASSOCIATE COMMISSIONER, NO ACTION IS BEING TAKEN AT THIS TIME WITH REGARD TO THE IRBI, RATES, PROCESS, ETC. A WORKGROUP IS BEING FORMED BY THE DIVISION OF DEVELOPMENTAL DISABILITIES' CFO, ANDY SLATE, TO DISCUSS AND PURSUE CHANGES AS DEEMED APPROPRIATE BY THE COMMITTEE.



Ann White-Spunner  
Associate Commissioner



Shirley Hicks  
Recorder